

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 1/12/2016	(3) CONTACT/PHONE Stephanie Fuhs, Planner III/(805)781-5721	
(4) SUBJECT Consideration of a request by Black Lake Golf Resort, LLC to process a Specific Plan, General Plan and Land Use Ordinance Amendment (LRP2014-00016) to amend provisions of the Black Lake Specific Plan. The site is within the Black Lake Village Reserve Line in the South County Inland subarea of the South County Planning Area. District 4. This item was continued from March 24, June 2, and August 11, 2015 Board meetings.			
(5) RECOMMENDED ACTION It is recommended that the Board review the proposed amendments to the Black Lake Specific Plan, General Plan and Land Use Ordinance and determine whether to authorize processing.			
(6) FUNDING SOURCE(S) Application Fees	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ____) <input checked="" type="checkbox"/> Board Business (Time Est. <u>30 minutes</u>)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input checked="" type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No		(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: <u>March 24, 2015, June 2, 2015, August 11, 2015</u>
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) District 4			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Stephanie Fuhs, Planner III

VIA: Bill Robeson, Deputy Director, Permitting

DATE: 1/12/2016

SUBJECT: Consideration of a request by Black Lake Golf Resort, LLC to process a Specific Plan, General Plan and Land Use Ordinance Amendment (LRP2014-00016) to amend provisions of the Black Lake Specific Plan. The site is within the Black Lake Village Reserve Line in the South County Inland subarea of the South County Planning Area. District 4. This item was continued from March 24, June 2, and August 11, 2015 Board meetings.

RECOMMENDATION

It is recommended that the Board review the proposed amendments to the Black Lake Specific Plan, General Plan and Land Use Ordinance and determine whether to authorize processing.

DISCUSSION

Background

On March 24, 2015, your Board held an authorization hearing by Black Lake Golf Resort, LLC, to consider a request to amend the Black Lake Specific Plan to increase residential density, expand the list of allowable uses, and allow for resort development (previous staff report attached). At the hearing, concerns were raised regarding residential development on the golf course, water use, traffic and safety. Your Board directed the applicant to work with the property owners to develop a project that was acceptable to the neighbors and directed staff to review the CC&Rs and open space easements for the Black Lake Village Area to determine if residential development on the golf course could be allowed. The hearing was continued to June 2, 2015.

On June 2, 2015, your Board continued this item in order to provide additional time for the applicant to meet with property owners in the Black Lake Village area to discuss revised development proposals and issues with existing CC&Rs and conditions of approval restricting residential development within the village reserve line.

On August 11, 2015, your Board continued this item to January to give the applicant additional time to meet with the property owners in the Black Lake Village area to discuss revised development proposals and issues with existing CC&Rs and conditions of approval restricting residential development within the village reserve line.

Current Application

Since August 11, 2015, the applicant has submitted an application (SUB2015-00035) for two tract maps and a Conditional Use Permit for the following:

- Tract 3092 – 33-lot phased Tract Map
- Tract 3094 – 23-lot Tract Map
- Conditional Use Permit –
 - Lodge with 84 resort units, including restaurant, conference space, various retail spaces, pro shop, café and event areas
 - 30 cottages as a condo/hotel
 - 20 cottages as a boutique hotel
 - 36 villas as individual single family vacation rentals
 - Re-location of the maintenance facility
 - 2,500 square foot chapel
 - 8,500 square foot tournament house and restaurant
 - 1,800 square foot executive course clubhouse
 - Recreational uses (swimming pool, tennis courts, bocce)

Staff has prepared an information hold letter for the project that was sent out December 11, 2015 (attached) stating that while staff supports the overall concept of increasing the recreational uses, the vacation rental portion of the project that is proposed within individual residences on individually owned parcels is not supportable without amending the specific plan to allow for increased residential density. This interpretation is based on the applicant's project description that the "villas" be placed on individual parcels and be individually owned. Vacation rentals by definition are within single family residences regardless of if the owner is limited to only occupying the unit for a maximum number of days per year.

Staff has requested that the applicant either revise the Specific Plan amendment request to include these 36 villas as part of the overall project description or revise the subdivision/land use permit request to remove the individually owned, single family residential vacation rentals on individual lots from the proposal.

Also since the August 11, 2015 Board meeting, the applicant submitted a letter to the Planning Director requesting a determination regarding the specific plan amendment process and the Planning Director's authority to authorize specific plan amendments (letter attached). Staff responded that the authority to authorize and general plan, specific plan or ordinance amendments is given to the Board.

Black Lake Declaration of Covenants, Codes and Restrictions (CC&Rs)

CC&Rs for the Black Lake community were first recorded on January 3, 1985. (Beginning at Vol. 2665, Pg. 917) The CC&Rs apply to the "Covered Property" that is defined to include the "Golf Course." The Golf Course is identified as a "Non-Residential Parcel." Using areas within the Golf Course for residential purposes would require the residential prohibition to be lifted from those areas. One way this could occur is through an amendment to the CC&Rs. This might be a difficult undertaking in a community with so many homeowners. Perhaps in recognition of this difficulty, the Golf Course owner has obtained a legal opinion that there are one or two alternative methods for removing the residential prohibition from parts of the Golf Course that could be accomplished without amending the CC&Rs.

Counsel for the Golf Course owner has determined that the Black Lake CC&Rs provide an unusually robust role for the Black Lake Management Association Architectural Review Committee. The Architectural Review Committee is made up of three members, appointed by the Black Lake Management Association Board of Directors, whose names must be recorded in the County

Recorder's office in order for their appointment to be effective. The current members and positions are as follows:

Standing Member ---- R. Jack Stoddard
Architect Member ---- Mark Rawson, A.C.A.
Rotating Member ---- Carlo Alfano, Developer

The Architectural Review Committee has many of the responsibilities that it might be expected to have. These include the approval of plans and specifications for building and landscaping. In addition, the Architectural Review Committee has a role to play in the use of the Golf Course. Among its other responsibilities is the ability to act together with the County to consent to the elimination of property from the Golf Course under the following provision:

"Property may be eliminated from the Golf Course for other uses only with the consent of both the Architectural Committee and said County; ..." (Vol. 2665, Pg. 970.)

The Architectural Committee also can act alone to make minor deletions from the Golf Course as described in the remainder of the sentence cited above:

"provided, the Architectural Committee alone may consent to varying the maintenance responsibilities along the perimeter areas of the Golf Course so that other persons and entities may assume such responsibilities and may also permit additions of land to the Golf Course and minor deletions of land from the Golf Course ('minor deletions' being those which the Architectural Committee determines do not affect the ability of the Golf Course to be 'played' as a golf course with the same number of holes as then exist.)" (Vol. 2665, Pg. 970.)

Of course, there are multiple ways to read this sentence allowing the Architectural Committee to consent to the elimination of Golf Course property "for other uses" and to consent to "minor deletions" of Golf Course property. Perhaps the question of who must authorize such an elimination or deletion hinges on whether the eliminated property will be put to another use. If so, County approval would also be required. If not, as might be the case with a perimeter maintenance issue, only Architectural Review Committee consent is required.

For the purpose of authorizing the processing of the proposed Specific Plan amendment, it suffices to conclude that Board approval of any such amendment could also include Board approval of the needed elimination of Golf Course property for the proposed other use. This would leave unresolved the questions of whether or not the Architectural Review Committee would also agree to the elimination and, if it did, whether its consent alone would be adequate to actually carry out the elimination of property from the Golf Course. Counsel for the Golf Course owner has proposed that the change be completed by way of a Supplementary Declaration. The Supplementary Declaration provisions within the CC&Rs, however, all speak to situations where property is being annexed into the Declaration of CC&Rs. In this case the eliminated property would change description but would not require annexation. These uncertainties could provoke challenges from those authorized to enforce the CC&Rs (all lot owners and/or the Black Lake Management Association), but legal challenges can be accounted for in standards addressing the effective date of any Specific Plan amendment that might be approved.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel has reviewed the CC&Rs for Black Lake and provided an analysis to planning staff as to how these documents might affect future residential development on the existing golf course (discussed above).

FINANCIAL CONSIDERATIONS

The applicant has paid a deposit and has agreed to process the amendments under a Real Time Billing Agreement, which will allow for the recovery of the actual cost of processing, and the applicant is required to fund the preparation of a supplemental/ subsequent EIR.

RESULTS

Authorization of this amendment application will allow continued processing, including preparation of an EIR, draft amendments to the Black Lake Specific Plan, and public hearings at the Planning Commission and Board of Supervisors.

Not authorizing the application will stop the further processing of the proposed amendments; this applicant and other landowners in Black Lake Village may continue to pursue land use entitlements pursuant to the existing Black Lake Specific Plan.

The authorization hearing is consistent with the county-wide goal of providing a well governed community.

ATTACHMENTS

Attachment 1 – Applicant's Project Description for SUB2015-00035 (Tract 3092, 3094 and Conditional Use Permit)

Attachment 2 – Information Hold Letter dated December 11, 2015

Attachment 3 – Applicant Request for Planning Director Interpretation dated November 24, 2015

Attachment 4 – Staff Response to Request for Planning Director Interpretation dated December 7, 2015

Attachment 5 – March 24, 2015 BOS Authorization Staff Report